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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,159	12/08/2003	Richard J. Schneider	AC053 (26668-58)	5096

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EXAMINER
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LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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09/03/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,159	<b>Applicant(s)</b> SCHNEIDER ET AL.	
	<b>Examiner</b> FRANK M. LEIVA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-32,49-51,53,54,56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-32,49-51,53,54,56 and 57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 June 2009 has been entered.

### ***Acknowledgements***

2. The examiner acknowledges amendments to claims 1, 26, 49 and 50-51; newly canceled claims 52 and 55; and new claims 56-57 in applicant's submission filed 02 June 2009.

### ***Response to Arguments***

3. Applicant's arguments filed 02 June 2009 have been fully considered but they are not persuasive. Reasons as follows;

4. The argument on page 7 of applicant's remarks; "*no combination of Wolfe and Acres describes permitting an unenrolled player to play a gaming device using an uncarded player account.*" The examiner points that Wolfe's hot player tracking system (§ [0118]), is accounting for all play on the floor carded and uncarded; which means that an account/file of unenrolled players is create the instant a game is played on the floor to keep track of monies played, thus the uncarded account/file, and as described in claim 1 when a trigger event occurs, the player is advised to enrolled, where the Wolfe invention detects the hot player trigger signal, the player is advised to enter into the program; which qualifies as allowing players to play without a card inserted into the game (uncarded).

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5. The argument on page 8 of applicant's remarks; "*No combination of Wolfe and Acres describes nor suggests presenting the unenrolled player with enrollment incentives that the unenrolled player would have earned if enrolled in the player tracking system*", all player tracking system including Acres (abstract, col. 1:49-51 and col. 7:24-26) have a chart of amenities (incentives) and accrual points for the players to read (presenting), showing how much they would have earned with the amount of play so far. It is well-known in the art to show players what they are missing by not enrolling.

6. The argument on page 10 of applicant's remarks regarding claims 3-10, 23, 24 and 53-55 being dependent of claim 1 is moot since claim 1 is found to be properly rejected.

7. The argument on page 10 of applicant's remarks regarding the rejection of claims 11-16 including the Walker reference is moot since claims 11-16 are dependent on claim 1 which is still being rejected.

8. The argument on page 11 of applicant's remarks regarding the rejection of claims 17-22 and 25-32 including the Benoy reference is moot since claims 17-22 and 25-32 are dependent on claim 1 which is still being rejected.

9. The argument on page 13 of applicant's remarks regarding the rejection of claim 49; "*no combination of Benoy and Acres describes nor suggests a server configured to track uncarded play of unenrolled players **having uncarded player accounts***", the examiner points to Benoy (col. 2:25-36) where the system tracks play by a player without using a card and without registering in the system, yet an account is created for the player.

10. The argument on page 13 of applicant's remarks regarding the rejection of claim 49; "*no combination of Benoy and Acres describes nor suggests a server configured to **present** the unenrolled player with enrollment incentives that the unenrolled player **would** have **earned** if **enrolled** in said player tracking system*", the examiner refers back to Acres as being the teacher of incentives as discuss above for claim 1.

***Claim Rejections - 35 USC § 103***

**11.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**12. Claims 1, 3-10, 23-24, 53-54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe et al (US 2004/0002386 A1) in view of Acres (US 6,371,852 B1).**

**13.** Regarding the analogous combination; **Wolfe** discloses a wireless casino player tracking system that tracks play on the floor of players that have not been registered into the system; and **Acres** discloses a method for adding incentive to enroll into a player tracking account system.

**14. Regarding claim 1;** Wolfe discloses a method of registering an unenrolled player in a player tracking system, comprising:

permitting the unenrolled player to play a gaming device using an uncarded player account, (¶ [0118]).

detecting a triggering event, (¶ [0117]), Qualifying for “hot player” status.

notifying the unenrolled player after the occurrence of the triggering event; and allowing the unenrolled player to enroll in the player tracking system in response to the notification, (¶ [0118-0119]);

Wolfe fails to disclose enrollment incentives whereas Acres discloses the very well-known marketing tool of enrollment incentives by awarding the unenrolled player enrollment incentives for enrolling, (abstract, col. 1:49-51 and col. 7:24-26).

presenting the unenrolled player with enrollment incentives that the unenrolled player would have earned if enrolled in the player tracking system, (col. 7:24-30);

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the player tracking enrollment incentive of Acres into the unenrolled player tracking system of Wolfe to predictably entice the player into forwarding his/hers information and participate in the card system. Also it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to promote such an expensive feature by letting the players know that there is an advantage to playing while carded, as shown in Acres (col. 8:4-8), where players that are enrolled would get a higher amount of bonus award than those not in the system. This goes without saying that all promotional aspects in a casino are well advertised to maximize effect; it serves no purpose to award bonuses if people are not aware of their existence. So presenting, showing, or warning that the player may win a larger amount if enrolled in the system is obvious and part of the normal operation of any marketing tool.

**15. Regarding claim 3;** Wolfe discloses wherein the detecting a triggering event comprises detecting, by the player tracking system, that a triggering event has been detected and prompting a casino employee present at the gaming device to contact the unenrolled player, (¶ [0118]).

**16. Regarding claim 4;** Wolfe discloses wherein a plurality of unenrolled players play a plurality of gaming devices, (¶ [0117]), wherein carded and uncarded players can play.

**17. Regarding claim 5;** Wolfe discloses wherein the plurality of gaming devices are networked together, (¶ [0117]), the information is accumulated by the tracking system.

**18. Regarding claim 6;** Wolfe discloses wherein the triggering event corresponds to an unenrolled player among the plurality of players having a highest level of player rating, (¶ [0117]).

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**19. Regarding claim 7-8;** Wolfe discloses wherein the triggering event is a random occurrence, (¶ [0018]), randomly occurring Jackpots events or random promotions such as “Hot Seat”.

**20. Regarding claim 9;** Wolfe discloses wherein the triggering event is a predetermined occurrence, (¶ [0172]).

**21. Regarding claim 10;** Wolfe discloses wherein notifying the unenrolled player comprises soliciting the unenrolled player to enroll in the player tracking system, (¶ [0119]).

**22. Regarding claim 23;** Wolfe discloses wherein the unenrolled player is allowed to enroll with the assistance of casino personnel, (¶ [0119]).

**23. Regarding claim 24;** Wolfe discloses wherein casino personnel approach the unenrolled player after the occurrence of the triggering event.

**24. Regarding claims 53-54;** Wolfe discloses wherein if the unenrolled player chooses not to enroll in the player tracking system, said method further comprises: tracking continued play of the unenrolled player; notifying the unenrolled player after an occurrence of a subsequent triggering event, (¶ [0119 and 0171]), wherein if the player has the choice to apply for the players card but if refuses, simply returns to be an uncarded player whose play is tracked on the floor and if he/she becomes a hot player again (trigger event), a hostess will be assigned to communicate or interact with the player. Wolfe fails to disclose sign up incentives, but Acres discloses the well-known methods of sign up award incentives and multiple comps available to entice the players and offering alternative enrollment incentives for enrolling based on the continued play; and further comprising adjusting a frequency of notifications to the unenrolled player during play, (col. 1:49-51 and col. 7:24-26).

**25. Regarding claim 56;** Wolfe and Acres disclose all the limitations recited in claim 1 and 53 from which claim 56 depends, and Acres further discloses wherein offering alternative enrollment incentives comprises offering a predetermined number of enrollment incentives, (abstract, col. 1:49-51 and col. 7:24-26) have a chart (predetermined) of amenities (incentives) and accrual points for the players to read (presenting alternatives), showing how much they would have earned with the amount of play so far. It is well-known in the art to show players what they are missing by not enrolling. It is obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate all the well-known marketing techniques of casino gaming to the casino player tracking systems of Wolfe and Acres.

**26. Claims 11- 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe and Acres as applied to claim 1 above and in further view of Walker et al. (US 2004/0127284 A1), hereinafter "Walker '284".**

**27. Regarding claims 11-16;** Wolfe and Acres discloses all the limitation of claim 1 from which claims 11-16 depend on; and Walker '284 discloses: wherein notifying the unenrolled player comprises visually notifying the unenrolled player; wherein notifying the unenrolled player comprises notifying the unenrolled player through a display associated with the gaming device; wherein notifying the unenrolled player comprises notifying the unenrolled player through an overhead sign; wherein the aural notification is emitted from the gaming device; wherein the aural notification is emitted from a speaker remote to the gaming device, (fig. 8:802, ¶[0662-0689]), wherein fig. 8 shows a reminder message to the player to register for the player tracking system and the rest shows all forms used by walker to effectively communicate to the players according to the urgency of the message.

**28. Regarding claims 11-16;** It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of player messaging of Walker '284 in Wolfe's invention to further help the player's in the busy casino floor. It is obvious



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that Wolfe's system works better if the player is enrolled in the player tracking system and adding well-known messages to players that are not enrolled is a predictable use of the equipment already at hand.

**29. Claims 17-22 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe and Acres as applied to claim 1 above and in further view of Benoy.**

**30.** Regarding the analogous combination; Benoy invention discloses the many facets of a player tracking systems as the system of Wolfe and Acres and is expressive on the details of self enrollment.

**31. Regarding claim 17-22;** Wolfe and Acres discloses all the limitation of claim 1 from which claims 17-22 depend on; and Benoy discloses wherein the unenrolled player is allowed to self enroll; wherein the unenrolled player is allowed to enroll through a terminal on the casino floor; wherein the terminal is unattended; wherein the unenrolled player is allowed to enroll at the gaming device; wherein the unenrolled player is allowed to enroll through a keypad associated with the gaming device; wherein the unenrolled player is allowed to enroll through a display associated with the gaming device, (col. 6:16-32). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. The self enrollment system of Benoy would be easy to implement in any Casino Kiosk machine and obvious to try by any casino establishment that wishes to reduce lines at the registration booths or reduce staff.

**32. Regarding claim 25;** Wolfe and Acres discloses all the limitation of claim 1 from which claim 25 depend on; and Benoy discloses applying a credit to the newly enrolled player's account following enrollment, (col. 6:63-64, 7:30-31). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine

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Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. Allowing to add credits to the new account is the purpose of creating the account in the first place, and obvious to do (try).

**33. Regarding claims 26-32;** Wolfe and Acres discloses all the limitation of claim 1 from which claims 26-32 depend on; and Benoy discloses wherein the uncarded player account is a temporary account; wherein credit is applied to the temporary account; wherein the unenrolled player is permitted access to the credit following enrollment; wherein the credit is payable immediately; wherein the credit is payable on a future visit; wherein the credit is payable incrementally; wherein the temporary account is associated with a player identifier, (col. 18:29-59). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. The temporary account of Benoy is necessary for a cashless system, yet it would be obvious to try it with Wolfe and Acres for players that wish to remain anonymous.

**34. Claims 49-51 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benoy et al. (US 6,896,618 B2), in view of Acres (US 6,371,852 B1).**

**35. Regarding claim 49;** Benoy discloses a player tracking system for uncarded players, comprising: a network; a plurality of gaming devices interconnected via said network; at least one server coupled to said plurality of gaming devices via said network wherein said at least one server is configured to track uncarded play of unenrolled players having uncarded player accounts; store the tracked uncarded play in a memory; detect an occurrence of a triggering event; and notify at least one of the unenrolled players after the occurrence of the triggering event, (col. 1:53-67 and col. 2:25-36), where the system tracks play by a player without using a card and without registering in the system, yet an account is created for the player and play is tracked. Benoy is silent

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to enrollment incentives, whereas Acres discloses awarding enrollment incentives for enrolling in the player tracking system, (abstract, col. 1:49-51 and col. 7:24-26), presenting the unenrolled player with enrollment incentives that the unenrolled player would have earned if enrolled in the player tracking system, (col. 7:24-30). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the player tracking enrollment incentive of Acres into the player tracking system of Benoy to predictably entice the player into giving his/hers information and participating in the player tracking card system. Also it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to promote such an expensive feature by letting the players know that there is an advantage to playing while carded, as shown in Acres (col. 8:4-8), where players that are enrolled would get a higher amount of bonus award than those not in the system. This goes without saying that all promotional aspects in a casino are well advertised to maximize effect; it serves no purpose to award bonuses if people are not aware of their existence. So presenting, showing, or warning that the player may win a larger amount if enrolled in the system is obvious and part of the normal operation of any marketing tool.

**36. Regarding claims 50-51;** Benoy and Acres discloses all the limitation of claim 49 from which claims 50-52 depend on and Benoy also discloses wherein said at least one server is further configured to enroll the at least one unenrolled player in said player tracking system; wherein said at least one server is further configured to award a bonus, (col. 2:25-36 and col. 19:20-43).

**37. Regarding claim 57;** Benoy and Acres discloses all the limitation of claim 49 from which claim 49 depends, and Acres further discloses wherein said at least one server is further configured to notify the at least one unenrolled player to enroll in said player tracking system (col. 7:24-30). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the player tracking enrollment incentive of Acres into the player tracking system of Benoy to predictably entice the player into giving his/hers information and participating in the player tracking card

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system. Also it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to promote such an expensive feature by letting the players know that there is an advantage to playing while carded, as shown in Acres (col. 8:4-8), where players that are enrolled would get a higher amount of bonus award than those not in the system. This goes without saying that all promotional aspects in a casino are well advertised to maximize effect; it serves no purpose to award bonuses if people are not aware of their existence. So presenting, showing, or warning that the player may win a larger amount if enrolled in the system is obvious and part of the normal operation of any marketing tool.

### ***Examiner's Note***

**38.** Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

08/28/20093

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714